

Ordinance No.: 16-50  
Zoning Text Amendment No.: 09-11  
Concerning: Residential Zones –  
Agricultural Vending  
Draft No. & Date: 2 – 04/22/10  
Introduced: November 17, 2009  
Public Hearing: January 12, 2010  
Adopted: May 4, 2010  
Effective: May 4, 2010

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: Councilmembers Berliner, Leventhal, Trachtenberg, Navarro, and Elrich

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- Allow the sale of farm produce by Certified Agricultural Producers in residential zones, under certain circumstances.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-1     “RESIDENTIAL ZONES, ONE-FAMILY”  
Section 59-C-1.31   “Land uses”

**EXPLANATION:** ***Boldface** indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment.*  
*[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*

## OPINION

Zoning Text Amendment No. 09-11, sponsored by Councilmembers Berliner, Leventhal, Trachtenberg, Navarro, and Elrich, was introduced on November 17, 2010. This ZTA would allow what most residents would call “farmers’ markets” on larger parcels of land (more than 4 acres) adjacent to major roads (4 or more lanes), if the lot is in use for a non-residential purpose, the use is at least 100 feet from the nearest dwelling, and the structure or vehicle used for sales is temporary. Only a Certified Agricultural Producer would be allowed to sell products.

On January 12, 2010 the Council held a public hearing concerning the proposed text amendment. The Planning Board Staff recommended approval of ZTA 09-11. The Planning Board recommended that the problem of farmers’ markets be addressed comprehensively in the Zoning Ordinance Rewrite. The Board was particularly concerned that the large parcel size required would result in large scale produce vending.<sup>1</sup> A property owner and a vendor testified in support of ZTA 09-11 as introduced. Some testimony also favored allowing more lots to have a farmers’ market. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held worksessions on January 21, 2010 and April 22, 2010 to review the amendment. The Committee recommended approval of ZTA 09-11 with an amendment to allow agricultural vending on lots that are least 2 acres.

The District Council reviewed Zoning Text Amendment No. 09-11 at a worksession held on May 4, 2010 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted, and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 09-11 will be approved as amended.

## ORDINANCE

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

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<sup>1</sup> The sustainability audit in the Planning Board’s “Zoning Montgomery” report recommended being more permissive with farmers’ markets. Planning Staff recommended approval of ZTA 09-11 as introduced.

1           **Sec. 1. DIVISION 59-C-1 is amended as follows:**

2   **DIVISION 59-C-1.       RESIDENTIAL ZONES, ONE-FAMILY.**

3   \*   \*   \*

4   **59-C-1.31. Land uses.**

5   \*   \*   \*

<b>(g) Miscellaneous.</b>	<b>RE-2</b>	<b>RE-2C</b>	<b>RE-1</b>	<b>R-200</b>	<b>R-150</b>	<b>R-90</b>	<b>R-60</b>	<b>R-40</b>	<b>R-4 plex</b>	<b>RMH 200</b>
Accessory buildings or structures for housing animals or fowl.	P	P	P	P	P	P	P			
Accessory buildings, structures, and uses. <sup>52</sup>	P	P	P	P	P	P	P	P	P	P
<u>Agricultural vending.*</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>			
Kennels, noncommercial. <sup>31</sup>	P	P	P	P	P <sup>30</sup>					
Security pavilion.	P <sup>50</sup>		P <sup>50</sup>	P <sup>50</sup>						
Signs, in accordance with article 59-F.	P	P	P	P	P	P	P	P	P	P

6   \*       At least 100 feet from a dwelling, a vendor who is a Certified Agricultural Producer under Chapter 47  
7       regulations is permitted to sell produce on a lot or parcel:

- 8       1) used for non-residential purposes other than agricultural vending;  
9       2) larger than ~~[[4]] 2~~ acres in size;  
10      3) abutting a roadway with 4 or more lanes[.]; and  
11      4) if the structure or vehicle used for sales remains in the same location for less than 24 hours.

12   \*   \*   \*

13           **Sec. 5.       Effective Date.** This ordinance takes effect immediately upon  
14 the date of Council adoption.

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16 This is a correct copy of Council action.

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18 *Linda M. Lauer*

19 Linda M. Lauer, Clerk of the Council